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8 Attorneys for the United States  
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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION  
13

14 UNITED STATES OF AMERICA, )  
15 Plaintiff, )  
16 v. )  
17 JUAN A. CARDENAS, )  
18 Defendant. )  
19

No. CR 05-00718 RMW

☐ ORDER VACATING  
TRIAL DATE, RESETTING MATTER  
FOR STATUS, AND EXCLUDING TIME  
FROM THE SPEEDY TRIAL ACT  
CALCULATION (18 U.S.C. §  
3161(h)(8)(A))

20 This matter is currently set for trial on March 31, 2008, with a pre-trial motion hearing set  
21 for March 9, 2008, and a pre-trial conference set for March 20, 2008. . The parties now jointly  
22 request that the March 31, 2008 trial date and other pre-trial hearing dates be vacated, and that  
23 this matter be set for status/trial setting on March 31, 2008. The grounds for the parties' request  
24 is that: (1) in an effort to eliminate unnecessary pre-trial motion practice, the parties wish to  
25 confer further regarding discovery, including materials the government has previously provided  
26 to the defense regarding DNA testing conducted in this matter; (2) the parties wish to confer  
27 regarding a pre-trial disposition of this matter, which may require conferring with state law  
28 enforcement authorities regarding pending state criminal charges against the defendant arising

STIPULATION AND ☐ ORDER  
CR 05-00718 RMW

1 from an alleged incident which took place after the alleged offense conduct in this case. If a  
2 resolution in this matter is not reached by the proposed March 31, 2008 status/hearing date, the  
3 parties' current intention would be to ask the Court on that date to reset this matter for trial  
4 commencing on a subsequent date.

5 In light of the above, the parties agree, and the Court finds and holds, as follows:

6 1. The currently March 31, 2008 trial date and March 9, 2008, and March 20, 2008 pre-trial  
7 hearing dates are hereby vacated.

8 2. This matter is set for status/trial setting on March 31, 2008, at 9:00 a.m.

9 2. The time between March 4, 2008 and March 31, 2008 is excluded under the Speedy Trial  
10 Act. The parties agree that the failure to grant the requested continuance would unreasonably  
11 deny defense counsel reasonable time necessary for effective preparation, taking into account the  
12 exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). The parties agree that the ends of  
13 justice served by granting the requested continuance outweigh the best interest of the public and  
14 the defendant in a speedy trial and in the prompt disposition of criminal cases. See 18 U.S.C. §  
15 3161(h)(8)(A).

16  
17 STIPULATED:

18 DATED: \_\_\_\_/s/\_\_\_\_

3/4/08  
\_\_\_\_\_  
NICHOLAS HUMY  
Assistant Federal Public Defender

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20  
21 DATED: \_\_\_\_/s/\_\_\_\_

3/4/08  
\_\_\_\_\_  
JOSEPH A. FAZIOLI  
Assistant United States Attorney

22  
23 IT IS SO ORDERED.

24 DATED: 3/13/08

*Ronald M. Whyte*  
\_\_\_\_\_  
RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE

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